

REMARKS

Claims 16-35 are currently pending in the application. In said Office Action, the Examiner has allowed Claim 34 and 35 and objected to Claim 26 and 27. The Examiner has rejected claims 16-25 and 28-33. As will be detailed herein, Applicants respectfully traverse the rejections of Claims 16-25 and 28-33 and submit that said claims are allowable over the art cited by the Examiner. Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

The Section 102 Rejection of Claims 16-18, 24 and 29.

The Examiner has rejected Claims 16-18, 24 and 25 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,832,648 to Theobald, et al. Applicant respectfully submits that the Examiner has improperly construed the disclosure of Theobald. Contrary to the Examiner's contention, Theobald does not disclose a bookmark. Theobald discloses a book or jacket cover.

Moreover, element 14 is not intermediate elastic member as that term is described and claimed by Applicant. Element 14 is not disclosed as being elastic nor is it elongated. It covers the front and back of the book. Similarly, elements 15 and 23 are not top end bottom anchors respectively, as those terms are described and claimed. Additionally, contrary to the position of the Examiner, elements 15 and 23 do not inhibit removal of the bookmark. The jacket of Theobald is held onto the book at the four corners of the book covers. Elements 15 and 23 cannot function to inhibit removal.

Applicant notes the Examiner's citation to Ex parte Masham in support of the rejection of the claims. Applicants submit that Ex Parte Masham is inapplicable to the instant case. First, Theobald does not satisfy the claimed structural limitations. Second, Applicant submits that the claim limitations dismissed by the Examiner are structural. Specifically, "said thickness being of a size to allow said intermediate member to extend between pages of the book end along the length of the spine of the book without

stretching the binding" is a structural limitation concerning the thickness of the member, and not a recitation of the manner of use. Similarly, "when the bookmark is inserted within said book without overlapping the pages or spine of the " is a structural limitation on the anchors and not a manner of use.

Applicants respectfully submit that Theobald fails to disclose each element of Claims 16-18, 24 and 29, and therefore the §102 rejection should be withdrawn.

The Section 103(a) Rejection of Claims 19-21

The Examiner has rejected Claims 19-21 as being obvious over Theobald, et al. Claims 19-21 are dependent upon Claim 16 and are allowable for the same reasons as Claim 16.

The Section 103(a) Rejection of Claims 16, 18-25, 28, 32 and 33

The Examiner has rejected Claims 16, 18-25, 28, 32 and 33 as being obvious over Bailey et al. in view of Crane. In support of the rejection of these claims the Examiner stated that Bailey et al. teaches a bookmark having a flexible, elastic intermediate member of ribbon A have opposed ended. Hooks (anchors) B are attached to each of the ends.

Applicants respectfully submit that the hooks B of Bailey et al. are not anchors or abutment members as disclosed in the specification and claimed by Applicants. Applicants have claimed a structure for the anchors or abutment members which would exclude the hooks of Bailey et al.

Therefore, Applicants submit that the combination of Bailey et al. and Crane cannot provide the claimed invention and do not render Claims 16, 18-25, 28, 32 and 33 obvious.

The Section 103 Rejection of Claim 17

The Examiner rejected Claim 17 under 35 U.S.C. 103(a) as being unpatentable over Bailey et al. in view of Crane as applied to Claims 16, 18-25, 28, 32 and 33 above, and further in view of Ward et al.

In doing so the Examiner stated that Bailey et al. and Crane together teach all that is claimed, as discussed in the above rejection of Claims 16, 18-25, 28, 32 and 33, except for the intermediate member being made from an elastometric material. And that Ward et al. teaches a bookmark with an elastomeric band A, a plurality of hooks on the band, and a line indicator on the band.

As discussed above Applicants submit that the Examiner has misconstrued the structure of Bailey, et al. The hooks B of Bailey are not the anchors and abutment members disclosed and claimed by Applicants. Accordingly, the obviousness rejection of Claim 17 is improper and should be withdrawn

The Section 103 Rejection of Claims 29-31

The Examiner rejected Claims 29-31 under 35 U.S.C. 103(a) as being unpatentable over Bailey et al. in view of Crane as applied to claims 16, 18-25, 28, 32 and 33 above, and further in view of Cox.

The Examiner held that Bailey et al. and Crane together teach all that is claimed, as discussed in the above rejection of claims 16, 18-25, 28, 32 and 33, except for the first and second abutments being three-dimensional. And that Cox teaches a book marker with a three dimensional ornamental element thereon. The element is in the form of a human face.

Again, Applicants submit that the Examiner has misconstrued the structure of Bailey, et al. and that when Bailey is properly construed it cannot be combined with Crane and Cox to arrive at the invention element in Claims 29-31.

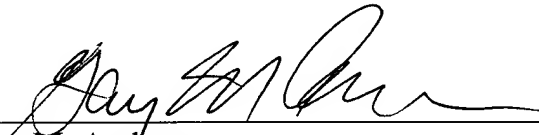
CONCLUSION

Applicants respectfully submit that the Examiner's rejection of Claims 16-25 and 28-33 is improper and should be withdrawn. Applicants earnestly request the issuance of a Notice of Allowance. If there are any remaining information to be addressed in order to put the application in condition for allowance, a telephonic interview with the Examiner is requested.

Please charge any additional fees payable in connection with this Amendment to Deposit Account No. 21-0800.

Respectfully submitted,

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